

1 BILL NO. S-83-10-03

2 SPECIAL ORDINANCE NO. S-223-83

3 AN ORDINANCE approving a Contract
4 by the City of Fort Wayne by and
5 through its Board of Public Works
6 and L. W. Dailey, Inc., for Res.
7 #5982-83, Greater McMillen,
8 Phase II (Fruehauf Drive).

9 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
10 OF THE CITY OF FORT WAYNE, INDIANA:

11 SECTION 1. The annexed Contract, made a part hereof,
12 by the City of Fort Wayne by and through its Board of Public
13 Works and L. W. Dailey, Inc., for Res. #5982-83, Greater McMillen,
14 Phase II (Fruehauf Drive), is hereby ratified, and affirmed and
15 approved in all respects. The work under said Contract requires:

16 improvement of Fruehauf Drive by installing
17 new curbs, sidewalks, catch basins and
18 pavement from Pontiac Street on the north
19 to Manford on the south. This area is
20 also known as Greater McMillen, Phase II;

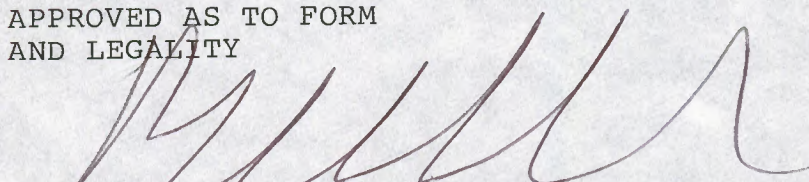
21 the Contract price is Eighty-Nine Thousand Six Hundred Eighty-
22 Nine and No/100 Dollars (\$89,689.00).

23 SECTION 2. Prior approval was received from Council
24 with respect to this Contract on August 23, 1983. Two (2) copies
25 of the Contract attached hereto are on file with the City Clerk,
26 and are available for public inspection.

27 SECTION 3. That this Ordinance shall be in full force
28 and effect from and after its passage and any and all necessary
29 approval by the Mayor.

30 
31 Councilmember

32 APPROVED AS TO FORM
AND LEGALITY


Bruce O. Boxberger, City Attorney

Read the first time in full and on motion by _____,
seconded by _____, and duly adopted, read the second time
by title and referred to the Committee _____ (and the City
Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Chambers, City-County Building, Fort Wayne,
Indiana, on _____, the _____ day of
_____, 19____, at _____ o'clock _____.M., E.S.T.

DATE: _____

CITY CLERK

Read the third time in full and on motion by Talarico,
seconded by Benjamin, and duly adopted, placed on its
passage. PASSED (~~LOST~~) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GIAQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHOMBURG</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCRUGGS</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 10-25-82

Sandra E. Kennedy
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL)
(APPROPRIATION) ORDINANCE (RESOLUTION) NO. 1-223-83
on the 25th day of October, 1982.

ATTEST:

(SEAL)

Sandra E. Kennedy

Ray A. E. E. E.

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 26th day of October, 1982, at the hour of
11:30 o'clock A..M., E.S.T.

Sandra E. Kennedy

CITY CLERK

Approved and signed by me this 27th day of October
1983, at the hour of 9 o'clock A..M., E.S.T.

Win Moses, Jr.

WIN MOSES, JR. - MAYOR

CONTRACT

Common Excavation	Five dollars and no cents per cubic yard	5.00
Concrete Removal	Five dollars and no cents per square yard	5.00
6" Concrete Pavement	Fourteen dollars and seventy- five cents per square yard	14.75
Curbface Walk	One dollar and sixty cents per square foot	1.60
6" Concrete Drives	Seventeen dollars and no cents per square yard	17.00
Remove & Replace C.B. Type I-C	One thousand, two hundred and seventy- five dollars and no cents per each	1,275.00
30" Inlet, Type I-C	Four hundred and twenty-two dollars and no cents per each	422.00
RCP Pipe Class V 12" (Including #73 Stone Backfill)	Seventeen dollars and no cents per lineal foot	17.00
Adjust Casting to Grade	One hundred dollars and no cents per each	100.00
New Casting Type A or C	Two hundred dollars and no cents per each	200.00

The Contractor hereby expressly agrees to perform all the work in the prosecution of the described improvement according to the terms and conditions of Improvement Resolution No. 598, the plans, profiles, specifications and the contractor's bid therefor on file in the office of the Department of Public Works of said City, which said resolution, profile, plans and specifications are made a part of this contract as fully and effectually as if copied herein at full length, (copies of which are attached hereto).

It is hereby agreed that no assignment of this contract shall be made without the written consent of the City; said Contractor hereby covenants and agrees that said improvement shall be finally *See Liquidated Damages Provision.

and in all respects completed on or before *October 31, 1983 and the Contractor agrees to pay and give to the City, as liquidated damages, the sum of \$25.00 for each and every day after said date

_____, 19____ until said work is finally completed and ready for acceptance by the City. It being also understood that in event of any conflict between this contract and the specifications, that the former shall be considered to contain the intention of the parties hereto.

It is further agreed by and between said parties, that the acceptance of the work provided for in this contract, or the payment therefor, for the whole or a part, shall not constitute a waiver on the part of the City of any of the provisions of the contract, nor shall it release said Contractor, or the sureties upon its bond for the faithful performance thereof, nor shall the acceptance be even prima facie evidence of the performance of any provisions of such contract except to the extent of entitling said Contractor to receive the price therefor. It is further understood that the failure of the City to exercise its right of inspection or rejection of material and work, or the exercise of such right shall not in any sense be considered an acceptance of any part of said work or material.

The Contractor further contracts and agrees that in the prosecution of said work all proper skill and care will be exercised, that said party will properly and fully guard all excavations and dangerous places, and will use all due and proper precautions to prevent injury to any property, person and persons, what or whomsoever. That for and during the period of the making of such improvement, and the period for which the same is to be maintained and kept in repair by the Contractor, the City shall be saved harmless from any and all liability whatsoever growing out of any injury or damage to property or persons because of any neglect or fault of the said Contractor, its agents or employees, in the execution of this contract or any matter connected therewith or related thereto and to pay any judgment with costs which may be obtained against said City, growing out of any such injury or damage.

To each of the conditions and stipulations in this contract, the undersigned bind themselves, their successors and assigns.

IN WITNESS WHEREOF, we the foregoing named parties hereunto set our hands this 26th

day of SEPTEMBER, 1983

ATTEST:

Peggy J. Yoder
Corporate Secretary

YODER & YODER CONCRETE CONTRACTORS
BY: Murray C. Yoder
James J. Yoder
ITS: Pundvers
Contractor, Party of the First Part.

City of Fort Wayne, By and Through:

[Signature]
Steve R. Collins
Jack Wilson, Jr.
[Signature]
Its Board of Public Works and Mayor.

ATTEST:

Heleen C. Gochenour
Secretary and Clerk

Sub-surface Drain in Place
(Including #8 Stone for Porous
Backfill & 6 oz./yd.³ Engineering
Fabrics

Three dollars and fifty cents per
lineal foot 3.50

Remove C.B. Two hundred dollars and no cents
per each 200.00

Bulkhead Pipes One hundred dollars and no cents
per lump sum 100.00

Tree Removal Two hundred and twenty-five dollars
and no cents per each 225.00

Seed, Mulch, & Fine Grading No dollars and seventy-five cents
per square yard 0.75

Total Eighty-nine thousand, six hundred and
eighty-nine dollars and no cents \$89,689.00

The Contractor will furnish immediately a certificate from the Industrial Board of the State of Indiana that he has complied with Sections 5, 68, 69 of the Workmen's Compensation Act, approved March 14, 1929, in accordance with Section 14 of the Compensation Act (Acts 1929, page 545, being I.C. 22-3-2-1 et. seq.).

A copy of General Ordinance No. G-34-78 (as amended) concerning discriminating in employment under municipal contracts is attached and incorporated herein by reference.

PERFORMANCE AND GUARANTEE BOND

KNOW ALL MEN BY THESE PRESENTS, that we YODER & YODER CONCRETE CONTRACTORS
as Principal, and the _____

_____, a corporation organized under the laws of the
State of _____, and duly authorized to transact business in the
State of Indiana, as Surety, are held firmly bound unto the City of Fort Wayne,
Indiana, an Indiana Municipal Corporation in the sum of EIGHTY-NINE THOUSAND,
SIX HUNDRED AND EIGHTY-NINE DOLLARS AND NO CENTS -----

(\$ 89,689.00-----), for the payment whereof well and truly to be made,
the Principal and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these presents. The
condition of the above obligation is such that

WHEREAS, the Principal did on the 30th day of September, 1983,
enter into a contract with the City of Fort Wayne to construct

Improvement Resolution No. 5982-83

To improve Fruehauf Drive by installing new curbs, sidewalks, catch basins, and pavement
from Pontiac Street on the north to Manford on the south. This area is also known as
GREATER MC MILLEN, PHASE II.

at a cost of \$ 89,689.00-----, according to certain plans and specifications
prepared by or approved by the City.

WHEREAS, the grant of authority by City to so construct such improvement
provides:

1. That said improvement shall be completed according to said plans and
specifications, and contractor shall warrant and guarantee all work, mater-
ial, and conditions of the improvement for a period of three (3) years from
the date of final acceptance in writing by the Owner;
2. There shall be filed with the City, within thirty (30) days after comple-
tion, a Completion Affidavit;
3. Said Principal is required to agree to make such adjustments, modifica-
tions, and repairs as required by the City within thirty (30) days after
notice.

WHEREAS, said Surety, for value received, hereby stipulates
no change, extension of time, alteration, or addition to the terms
tract or to the work to be performed thereunder, or the specifications
panying the same, shall in any way affect its obligation on this bond, and
does hereby waive notice of any such change, extension of time, alteration or
addition to the terms of the contract, or to the work or to the specifications.

NOW THEREFORE, if the principal shall faithfully perform all of the terms and
conditions required of it by the contract and shall for three (3) years after
acceptance of said improvement by City warrant and guarantee said improvement
and shall indemnify the City for all loss that City may sustain by reason of the
Principal's failure to comply with any of the terms of the authorization, then
this obligation shall be void, otherwise it shall remain in full force and effect.

YODER & YODER CONCRETE CONTRACTORS
(Contractor)

BY: _____

ITS: _____

ATTEST:

(Title)

Surety

*BY: _____
Authorized Agent
(Attorney-in-Fact)

*If signed by an agent, power of
attorney must be attached

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: that

----- YODER & YODER CONCRETE CONTRACTORS -----

(Name of Contractor)

----- R.R. #2, HAMILTON, INDIANA 46742 -----

(Address)

a _____, hereinafter called Principal,
(Corporation, Partnership or Individual)

and _____
(Name of Surety)

and duly authorized to transact business in the State of Indiana, hereinafter called Surety, are held and firmly bound unto the City of Fort Wayne, an Indiana Municipal Corporation in the penal sum of EIGHTY-NINE THOUSAND, SIX HUNDRED AND EIGHTY-NINE DOLLARS AND NO CENTS for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the 30th day of September, 1983, for the construction of:

Improvement Resolution No. 5982-83

To improve Fruehauf Drive by installing new curbs, sidewalks, catch basins, and pavement from Pontiac Street on the north to Manford on the south. This area is also known as GREATER MC MILLEN, PHASE II.

at a cost of EIGHTY-NINE THOUSAND, SIX HUNDRED AND EIGHTY-NINE DOLLARS AND NO CENTS
(\$ 89,689.00), all according to Fort Wayne Street Engineering Department plans and specifications.

WHEREAS, said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the contract or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work or to the specifications, and

WHEREAS, no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

NOW, THEREFORE, if the Principal shall promptly make payment to firms, subcontractors, and corporations furnishing materials for or labor in, the prosecution of the work provided for in such contract, and authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subconstructor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

IN WITNESS WHEREOF, this instrument is executed in _____ counter-
parts, each one of which shall be deemed an original, this _____ (number)
_____, 19____ day of _____.

(SEAL)

ATTEST:

(Principal) Secretary

Witness as to Principal

(Address)

Witness as to Surety

(Address)

YODER & YODER CONCRETE CONTRACTORS
Principal

BY _____

(Title)

(Address)

Surety
BY _____

Attorney-in-Fact
(Authorized Agent)

(Address)

NOTE: Date of Bond must not be prior to date of Contract.
If Contractor is Partnership, all partners should execute bond.

ATTACH POWER OF ATTORNEY

BILL NO. S-83-10-03

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON Public Works TO WHOM WAS REFERRED AN
ORDINANCE approving a Contract by the City of Fort Wayne by and
through its Board of Public Works and L.W. Dailey, Inc., for Res.
#5982-83, Greater McMillen, Phase II (Fruehauf Drive)

HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT
BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE Do PASS.

SAMUEL J. TALARICO, CHAIRMAN

VICTURE L. SCRUGGS, VICE CHAIRMAN

MARK E. GIAQUINTA

PAUL M. BURNS

ROY J. SCHOMBURG

Samuel J. Talarico

Victure Scruggs

Mark E. Giaquinta

Paul M. Burns

Roy Schomburg
Sandra E. Kennedy

*Concerned
in 10-25*

6455

Admn. Appr.

TITLE OF ORDINANCE Contract for Res. #5982-83, Greater McMillen, Phase II (Fruehauf Dr.)

DEPARTMENT REQUESTING ORDINANCE Board of Public Works

SYNOPSIS OF ORDINANCE Res. #5982-83, Greater McMillen, Phase II (Fruehauf Dr.) is for improvement of Fruehauf Drive by installing new curbs, sidewalks, catch basins and pavement from Pontiac Street on the north to Manford on the south. This area is also known as Greater McMillen, Phase II. Yoder & Yoder Concrete is contractor.

PRIOR APPROVAL RECEIVED 8/23/83

EFFECT OF PASSAGE Improvement of above area.

EFFECT OF NON-PASSAGE

MONEY INVOLVED (DIRECT COSTS, EXPENDITURE, SAVINGS) \$89,689.00

ASSIGNED TO COMMITTEE